

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

IN RE: Trademark Reg. No. 2,668,599

11-17-2003
U.S. Patent & TMO/c/TM Mail Rcpt Dt. #22

VON CURTIS, INC., a Utah
corporation,

Petitioner,

v.

DAVID PATRICK BONTEMPO,

Registrant

CANCELLATION NO.: _____

PETITION FOR CANCELLATION

Petitioner, Von Curtis, Inc., a Utah corporation ("Petitioner"), hereby petitions to cancel Registration No. 2,668,599, granted December 31, 2002, for the trademark "**CORE CUTTING**" (the "Cited Mark") owned by David Patrick Bontempo ("Registrant") on the grounds that Petitioner believes that it will be damaged by said registration and hereby petitions for cancellation.

The grounds for cancellation are as follows:

1. Petitioner is and has been for many years the owner and operator of cosmetology schools and provided lecturers through out the United States at various hair cutting workshops, seminars, and educational events, providing educational services, including but not limited to, conducting classes in hair cutting techniques, and providing hair cutting services. Petitioner has used in interstate commerce the trademark CORE CUTTING since long prior to Registrant's date

of first use of the trademark registered.

2. Petitioner claims a common-law right to the cited mark, having used it in connection with providing its services to educate cosmetologists, hairdressers and barbers, through its teaching programs at its cosmetology schools, as part of the core curriculum, and as part of a lecture format for workshops and seminars through out the United States.

3. Petitioner's products, which include its educational materials, videos, and services include courses in hair cutting techniques at both its cosmetology schools, providing guest lecturers at other schools, and lecturing and demonstrating hair cutting techniques at workshops and seminars in the professional beauty market, advertising these services and the accompanying materials have been extensively and continuously offered to the public through various channels of trade. Further, Petitioner has extensively advertised its services and products and created widespread good will under the cited mark through out the United States. By reason of such advertising and wide distribution of Petitioner's products and services bearing the cited mark, the professional beauty industry members of the public have come to recognize CORE CUTTING as signifying Petitioner's services and products and Petitioner. Petitioner commenced using the mark in connection with the services set forth herein above in 1984.

4. Notwithstanding Petitioner's long prior rights in and to said trademark, Registrant on information and belief on October 22, 2001 filed an application for registration of the cited mark in International Class 041, US 100, 101, 107, for goods and services, described as educational services, namely, conducting classes in hair cutting techniques, and in International Class 044, US 100, 101, for hair cutting services. Said application was given serial number 76328576 and the cited mark was registered on December 31, 2002. A copy of the USPTO TESS report is attached hereto indicating the status of said registration as Petitioner's Exhibit 1.

5. The trademark is confusingly similar to Petitioner's common-law trademark and its registration and continued use by Registrant on its goods and services is likely to cause confusion, deception and mistake, all to Petitioner's damage.

6. According to the records of the USPTO, Registrant's address is David Patrick Bontempo, 50 East Green Street, Pasadena, California 91105.

WHEREFORE, Petitioner respectfully requests that Registration No. 2,668,599 be **CANCELED**, and prays for such other and further relief as is deemed just and proper.

The requisite filing fee of \$600 for Petition for Cancellation of one registration in two classes, accompanies this petition.

Please direct all future correspondence to :

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Respectfully submitted,

VON CURTIS, INC.

By: _____
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California Bar No. 77853

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Attorneys for Petitioner


CERTIFICATE OF FEDERAL EXPRESS DELIVERY

I hereby certify that the foregoing Petition for Cancellation is being submitted in duplicate, with accompanying exhibits and fees and is being deposited with Federal Express Delivery Service on November 15, 2003 and under the mailing label No. _____ and addressed as follows: Assistant Commissioner of Patent and Trademark, Attn: Box TTAB FEE 2900 Crystal Drive, Arlington, Virginia 22202-3113.

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UNITED STATES PATENT AND TRADEMARK OFFICE

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Typed Drawing

Word Mark	CORE CUTTING
Goods and Services	IC 041. US 100 101 107. G & S: EDUCATIONAL SERVICES, NAMELY, CONDUCTING CLASSES IN HAIR CUTTING TECHNIQUES. FIRST USE: 19880214. FIRST USE IN COMMERCE: 19880214
	IC 044. US 100 101. G & S: HAIR CUTTING SERVICES. FIRST USE: 19880214. FIRST USE IN COMMERCE: 19880214
Mark Drawing Code	(1) TYPED DRAWING
Serial Number	76328576
Filing Date	October 22, 2001
Current Filing Basis	1A
Original Filing Basis	1A;1B
Published for Opposition	October 8, 2002
Registration Number	2668599
Registration Date	December 31, 2002
Owner	(REGISTRANT) Bontempo, David Patrick INDIVIDUAL UNITED STATES 50 East Green Street Pasadena CALIFORNIA 91105
Attorney of Record	DOUGLAS E. WHITE
Disclaimer	NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "CUTTING"

APART FROM THE MARK AS SHOWN
Type of Mark SERVICE MARK
Register PRINCIPAL
Live/Dead Indicator LIVE

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TTAB

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November 14, 2003

Commissioner for Trademarks
Box TTAB - Fee
2900 Crystal Drive
Arlington, VA 22202-3515

11-17-2003

U.S. Patent & TMOtc/TM Mail Rcpt Dt. #22

Re: Von Curtis, Inc. v. David Patrick Bontempo
Cancellation Petition
Mark: CORE CUTTING

Dear Commissioner for Trademarks:

Enclosed please find the following:

1. Two copies of the Petition for Cancellation;
2. Fee in the amount of \$600.00.
3. ~~Post card, self addressed & stamped for proof of receipt.~~

Thank you for your anticipated help and cooperation in this matter.

Very truly yours,



Michaeline A. Ré

MAR:md
enclosures